

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 MARVIN W. PEGUES,) Case No. CV 10-01548-VBF-JPR
11)
12 Petitioner,)
13 v.) ORDER ACCEPTING FINDINGS AND
14) RECOMMENDATIONS OF U.S.
15 J. SOTO, Warden,) MAGISTRATE JUDGE
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17 Respondent.)
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17 The Court has reviewed the First Amended Petition, records
18 on file, and Report and Recommendation of the U.S. Magistrate
19 Judge. See 28 U.S.C. § 636. On January 22, 2015, Petitioner,
20 through counsel, filed objections to the R&R, in which he mostly
21 contends that the Magistrate Judge "overlooked" various things.
22 In fact, the Magistrate Judge carefully considered each of those
23 points in her 53-page R&R and simply rejected Petitioner's
24 interpretation of or emphasis on them. For example, the
25 Magistrate Judge considered and rejected Petitioner's claim
26 (Objections at 7) that it would have been impossible for Gouche
27 to have seen the occupants of the next car because he testified
28 that he could not see out the tinted windows (R&R at 31.)

1 Indeed, as the Magistrate Judge pointed out, Gouche testified
2 that he could not see out the rear window, not the rear side
3 windows, and he also testified that at one point the other car
4 was parallel to his (Lodged Doc 2, 6 Rep.'s Tr. at 1206-07),
5 presumably allowing him to see the car's occupants through the
6 rear side windows. Similarly, the Magistrate Judge did not
7 "overlook" Petitioner's claim (Objections at 8-9) that the gang
8 expert's testimony was not sufficient to prove the gang
9 enhancement (see R&R at 33-35). Indeed, the Magistrate Judge
10 addressed each of the points Petitioner raises in his Objections.

11 Having reviewed de novo those portions of the R&R to which
12 objections were filed, the Court accepts the findings and
13 recommendations of the Magistrate Judge. IT IS ORDERED that the
14 First Amended Petition is denied without leave to amend and
15 Judgment be entered dismissing this action with prejudice.

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17 DATED: February 25, 2015



19 VALERIE BAKER FAIRBANK
20 Senior United States District Judge

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